

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/19/2023

BRUCK LLP
Attorneys and Counselors at Law
 1207 EAST 34TH STREET, BROOKLYN, NY 11210



TELEPHONE: (212) 593-9090
 FACSIMILE: (212) 644-6667
 EMAIL: YB@BruckLLP.com

MEMO ENDORSED

VIA ECF

Honorable Nelson S. Román, U.S.D.J.
 United States District Court
 Southern District of New York
 Federal Building and United States Courthouse
 300 Quarropas St.
 White Plains, NY 10601-4150

December 19, 2023

Re: *Smart Shoppers BH LLC v. Tylers Coffee LLC et. al./ 22-cv-04969 (NSR)*
Motion to Dismiss, Request for Discovery/Initial Conference

Dear Judge Román:

This Firm represents the plaintiff, Smart Shoppers BH LLC (“Plaintiff”), in the above-captioned case.

By way of background and reference, and respectful reminder Defendants’ motion to dismiss (the “Motion”) has been fully briefed since January 4, 2023.

For scheduling purposes—given the time of year and for other reasons—including and especially if oral argument might be wanted/needed by Your Honor—on behalf of Plaintiff, when might the Court issue a decision on the Motion. To this end, respectfully, if the Motion will remain pending for any appreciable time, at this point Plaintiff respectfully requests a conference in which the Court will establish a discovery and pre-trial case management plan. To be sure, Plaintiff has been bereft—the owner of which has been for several months asking me for a timetable to prosecute this case—if not prejudiced and I have not had any information to provide other than to remind him to be patient given the busy schedule of Your Honor and heavy caseload in the Court.

I, personally, and on behalf of Plaintiff thank Your Honor for the Court’s time and courtesies in this matter.

Respectfully submitted,

BRUCK LLP

By: /s/ Yair Bruck
 Yair M. Bruck

cc: **VIA ECF** counsel of record

Pltf.'s request is DENIED. It is premature to set a discovery schedule and case management plan while a motion to dismiss is pending. The Court will issue its opinion in due course. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 58.

Dated: December 19, 2023
 White Plains, NY

SO ORDERED:

HON. NELSON S. ROMAN
 UNITED STATES DISTRICT JUDGE